

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**APPEAL FROM ORDER No. 34 of 2007****With****CIVIL APPLICATION No. 1441 of 2007****In****APPEAL FROM ORDER No. 34 of 2007****For Approval and Signature:****HONOURABLE MR.JUSTICE DN PATEL**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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TORRENT POWER LIMITED - Appellant(s)**Versus****MANSUKH.D.PATEL - Respondent(s)**

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Appearance :

MR KB PUJARA for the Appellant.

MR BK DAMANI for the Respondent.

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CORAM : HONOURABLE MR.JUSTICE DN PATEL**Date : 10/09/2007****ORAL JUDGMENT**

Admit. The present Appeal from Order has
been preferred by the original defendant against the

order dated 9th January, 2007 below Notice of Motion preferred by the respondent (original plaintiff) in Civil Suit no. 2360 of 2006 passed by the City Civil Court, Ahmedabad, whereby the trial court has directed present appellant company to supply additional load of electricity to the respondent (original plaintiff) despite the fact that the plaintiff has not paid the amount towards consumption of electricity for service bearing consumer no. 747609. The original plaintiff is having electricity connection in his own name, one is having consumer service no. 747609, (For this service, because of theft of electricity, supplementary bill has been issued by the appellant company to the tune of Rs. 1,05,166.00 which has not been yet paid by the original plaintiff) and another consumer service no. 1324664 for which additional load of electricity is demanded and as the same was not given, the suit was instituted by the plaintiff. In the Notice of Motion, a direction is given by the trial court to the appellant company despite non-payment of amount for consumer service no. 747609. The present Appeal from Order has been therefore, preferred by the original defendant.

2. Having heard the learned counsel for both the sides and looking to the facts and circumstances of the case, the order dated 9th January, 2007 below Notice of Motion in Civil suit no. 2360 of 2006 passed by the City Civil Court, Ahmedabad is hereby quashed and set aside for the following facts and

reasons:

(i) It appears that the present respondent has instituted the above suit for getting additional load of electricity for consumer service no. 1324664. The additional load of electricity was not supplied by the present appellant (original defendant) mainly because original plaintiff is having another consumer service no. 747609. For that second service, because of theft of electricity, supplementary bill was issued for a sum of Rs. 1,05,166.00. This amount has not been paid and therefore, additional load of electricity was not given to the original plaintiff for consumer service no. 13224664. Both these service numbers are in the name of the present respondent (original plaintiff).

(ii) It is also an admitted fact that the original plaintiff has not paid the amount towards supplementary bill for his another consumer service no. 747609 and is demanding additional load of electricity for consumer service no.1324664.

(iii) It also appears from the facts of the case that in pursuance of section 50 of The Electricity Act of 2003, Gujarat Electricity Regulatory Commission, has to enact Electricity Supply Code which provides for recovery of electricity charges, for giving of electricity connection and disconnection of supply of electricity, also for non-payment etc. This Electricity Supply Code covers several aspects. Section 50 of the Act of 2003 reads as under:

"50. The Electricity Supply Code:- The State Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter."

In pursuance of this section 50 of the Act of 2003, Gujarat Electricity Regulatory Commission has enacted Electricity Supply Code and Related Matters Regulations, 2005. These Regulations are known as **"Gujarat Electricity Regulatory Commission (GERC), Electricity Supply Code and Related Matters Regulations, 2005."** Para 4.1.11 thereof reads as under:

"4.1.11. An application for new connection, reconnection, addition or reduction of load, change of name or shifting of Service Line need not been entertained unless any dues of the Applicant to the Distribution Licensee in respect of any other service connection held in his name anywhere in the jurisdiction of the Distribution Licensee have been cleared." (Emphasis supplied)

Thus, if there is any application for addition or reduction of load, unless the applicant clears dues of any other service, held in his name, such application need not been entertained. In view of the aforesaid provision and looking to the

aforesaid admitted facts that earlier connection bearing Consumer service no. 747609 was also in the name of the original plaintiff, supplementary bill has already been issued for this connection by the appellant and these dues have not been cleared and therefore, the application preferred for getting additional load by the plaintiff for his another connection bearing no. 1324664 need not be entertained by the appellant company. There is no legal obligation on the part of the appellant company to entertain such application from any applicant who has not cleared his dues for an other service connection held in his name anywhere in the jurisdiction of the distribution licensee. This aspect of the matter has not been appreciated by the trial court.

3. In view of the above provisions, the mandatory direction given vide order dated 9th January, 2007 below Notice of Motion order in Civil Suit no. 2360 of 2006 by City Civil Court, Court no. 11, Ahmedabad is hereby quashed and set aside. This Appeal from Order is allowed, accordingly, with no order as to costs.

4. As the order has been passed in the Appeal from Order, Civil Application no. 1441 of 2007 is also disposed of.

(D.N.Patel, J)

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